

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

RECEIVED

2004 NOV 19 PM 2:24

T.R.A. DOCKET ROOM

In re: Rulemaking to Implement
County Wide Calling Rules

Docket No. 04-00205

POST HEARING COMMENTS OF AENEAS COMMUNICATIONS

Aeneas Communications submits the following comments regarding the above-captioned rulemaking. These comments are intended to supplement the oral remarks of Aeneas President Jonathan Harlan.

This rulemaking addresses the implementation of Tennessee's "county-wide calling" statute, T.C.A. § 65-21-114, which states that "any call made between two points in the same county shall be classified as toll free." The proposed rules are intended to standardize the procedures used by carriers to identify intra-county calls. The rules require all carriers to submit data to the TAR data base and to use that data base to compare the originating and terminating numbers on each call. If the data base indicates that the NPA-NXX of the originating and terminating numbers are in the same county, the customer cannot be charged.

Aeneas generally supports the proposed rules but believes that the rule may have some adverse, unintended consequence.

It is the understanding of Aeneas that the information submitted to the TAR data base must be consistent with the Telecordia Local Exchange Routing Guide ("LERG") which is the recognized source for routing information throughout the telecommunications industry. For example, if the LERG indicates that a particular NPA-NXX is associated with the Nashville rate

center, the carrier to which that NPA-NXX is assigned cannot put that NPA-NXX into the TAR data base as being in any county other than Davidson County. If the carrier submits that number to the TAR data base and indicates that the number is, for example, associated with Shelby County, the TAR data base will reject the submission.

The proposed rules appear to tamper with this well-established process for submitting numbers to the TAR data base. The proposed rules state that the county-wide calling statute applies only to calls which “physically” originate and terminate in the same county and seem to imply that a carrier submitting information to the TAR data base must determine the “physical” location of each customer using that NPA-NXX number rather than relying on the LERG.

Aeneas submits that this aspect of the proposed rules goes far beyond the intent of this proceeding and will cause problems which the Authority has not intended to create. Given the “porting” of telephone numbers among local exchange carriers and between wireline and wireless carriers, it is no longer possible to determine the “physical” location of either the caller or the called party. The implementation of VOIP service will only compound this difficulty. It makes no sense for the Authority to try to force carriers to identify the “physical” location of callers at the very time that industry developments are making that task increasingly irrelevant.¹

Second, as both Mr. Harlan and Mr. Jerry Dunlap of ISDN.Net testified, the proposed rules may also have unintended anti-competitive consequences, especially in rural parts of Tennessee. In those areas, the use of “virtual” NPA-NXX numbers is a common practice. It allows competitive local exchange carriers and ISPs to offer service in small communities even

¹ Aeneas also notes that the issue of whether local calls between carriers should be rated based on the NPA-NXX of the originating and terminating numbers and the associated rate centers as shown in the LERG is now pending before the Authority in Docket 03-00585 (issue 12). As the testimony in that docket indicates,

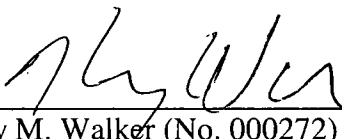
though the provider does not have a physical presence in that immediate area. The Authority should not allow a rulemaking which was intended simply to standardize use of the TAR data base to have the unintended consequence of destroying competition in rural counties. At a minimum, the TRA should study carefully the full implications of eliminating the use of "virtual" NPA-NXX numbers before taking any such action as proposed in these rules. It is surely not the purpose of this rulemaking to deprive thousands of rural Tennesseans of the competitive choices they now enjoy

Aeneas supports requiring all carriers to use the TAR data base in order to implement county-wide calling but these rules should not change or affect the current manner in which information is submitted to the data base or the manner use of the LERG to route and rate traffic

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____


Henry M. Walker (No. 000272)
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

the issue is a complex one and implicates both the federal Telecommunications Act and the FCC's rules